

AUG 02 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

EARLLA ROHLF NELSON,

Defendant - Appellant.

No. 05-30637

D.C. No. CR-99-00052-DWM

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Donald W. Molloy, District Judge, Presiding

Submitted July 24, 2006**

Before: ALARCÓN, HAWKINS, and THOMAS, Circuit Judges

Earlla Rohlf Nelson appeals the sentence imposed upon revocation of supervised release. She contends that the sentence violates the Sixth Amendment, as interpreted by *United States v. Booker*, 125 S. Ct. 2531 (2005), because the

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

district court made additional factual findings to revoke her supervised release and imposed a prison term that both executes the original sentence imposed under mandatory sentencing guidelines and, combined with the original prison term, exceeds the high end of the Sentencing Guidelines range that corresponds to the offense to which she pled guilty.

This contention, as Nelson acknowledges in her Reply Brief, is foreclosed by *United States v. Huerta-Pimental*, 445 F.3d 1220 (9th Cir. 2006).

AFFIRMED.